

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HERBERT DEON GOODWIN, JR.

Petitioner,

v.

KATHLEEN ALLISON

Respondent.

Case No. 1:22-cv-00298-JLT-CDB (HC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING
PETITION FOR WRIT OF HABEAS
CORPUS, DIRECTING THE CLERK OF
COURT TO CLOSE THE CASE, AND
DECLINING TO ISSUE CERTIFICATE
OF APPEALABILITY**

(Doc. 28)

Herbert Deon Goodwin, Jr. is a state prisoner proceeding pro se with his amended petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Doc. 11). The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 16, 2025, the assigned magistrate judge issued Findings and Recommendations recommending that the petition for writ of habeas corpus be denied as without merit, and that the court decline to issue a certificate of appealability. (Doc. 28). Those Findings and Recommendations were served upon all parties and contained notice that any objections thereto were to be filed within fourteen (14) days after service. In addition, the parties were “advised that failure to file objections within the specified time may result in the waiver of rights on appeal.” (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014); *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)). After receiving a requested extension, Petitioner filed objections on June 16, 2025. (Doc. 31).

Petitioner's objections largely reiterate arguments he raised in support of the petition, including that the state court decision rejecting confrontation claim was contrary to *Hammon v. Indiana*, 547 U.S. 813 (2006); there is an independent right to confront witnesses under the Fourteenth Amendment; and there was insufficient evidence to support that one of the victims was a minor. (Doc. 31 at 6-8). Petitioner also argues the magistrate judge did not apply the correct standard for a certificate of appealability and a certificate is warranted in this case. (*Id.* at 8-9).

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, including Petitioner's objections, the Court holds the findings and recommendations to be supported by the record and proper analysis.¹

Having found that Petitioner is not entitled to relief, the Court now turns to whether a certificate of appealability should issue. A petitioner seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of his petition, and an appeal is only allowed in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003); 28 U.S.C. § 2253. If a court denies a habeas petition on the merits, the court may only issue a certificate of appealability "if jurists of reason could disagree with the district court's resolution of [the petitioner's] constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller-El*, 537 U.S. at 327; *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). While the petitioner is not required to prove the merits of his case, he must demonstrate "something more than the absence of frivolity or the existence of mere good faith on his . . . part." *Miller-El*, 537 U.S. at 338.

The Court finds that reasonable jurists would not find the Court's determination that the petition should be denied debatable or wrong, or that Petitioner should be allowed to proceed

¹ Even were Mr. Goodwin to be correct that the drivers' license may have contained false information as to A.J.'s age, there was other evidence from the social worker that A.J. was a minor. (Doc. 17-4 at 306) On the other had, the Court observes also that, the social worker also identified A.J. as a person she was working with and that she worked with "wards of the court" and the the "court" had given her limited authority to speak about A.J. (Doc. 17-4 at 306) Notably, the juvenile court in California can take jurisdiction only over children under the age of 18. California Fam. Code § 6500 ["A minor is an individual who is under 18 years of age."]; California Welf. & Instit. Code § 300.

1 further. Petitioner has not made the required substantial showing of the denial of a constitutional
2 right. Therefore, the Court declines to issue a certificate of appealability. Based upon the
3 foregoing, the Court **ORDERS**:

- 4 1. The Findings and Recommendations issued on May 16, 2025 (Doc. 28) are
5 **ADOPTED** in full.
- 6 2. The amended petition for writ of habeas corpus (Doc. 11) is **DENIED**.
- 7 3. The Clerk of the Court is directed to close the case.
- 8 4. The Court declines to issue a certificate of appealability.

9
10 IT IS SO ORDERED.

11 Dated: **July 29, 2025**


UNITED STATES DISTRICT JUDGE